



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 09-01 (CPL 02-03)

EFFECTIVE DATE: December 16, 2009

SUBJECT: Regional Emphasis Program to Implement a Pilot Program for Processing 11C appeals at the Regional Level

REGIONAL IDENTIFIER: Dallas Regional Notice CPL

ABSTRACT

Purpose: The purpose of this instruction is to establish a Regional Emphasis Program (REP) to develop and implement Pilot Program procedures that Region VI will use to handle 11C appeals from complainants.

Scope: This Notice applies to all Area Offices in Region VI.

References: OSHA Instruction: DIS 0-09, August 22, 2003 – Whistleblower Investigations Manual; Chapter 4 Section VI" Appeals".

Cancellations: None

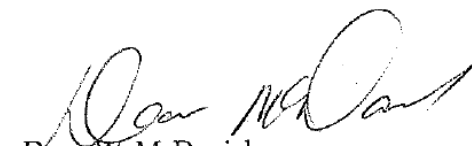
State Impact: None

Action Offices: Enforcement Programs! Office of Whistleblower Protection Program

Originating Office: Dallas Regional Office

Contact: Assistant Regional Administrator (ARA) for Enforcement Programs
USDOL-OSHA Dallas Regional Office
525 Griffin Street; Room #602
Dallas, Texas 75202
(972) 850-4177

By and Under the Authority of



Dean W. McDaniel
Regional Administrator

Executive Summary

This instruction establishes a Regional Emphasis Program to develop and implement Pilot Program procedures that Region VI will use to handle 11c appeals from complainants. Currently, all 11c appeals are handled through OSHA's National Office, Whistleblower Program. During this pilot program, all 11c appeals will be processed and resolved by the Regional Office.

Significant Changes: None

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- I. **SUBJECT:** Regional Emphasis Program for the development and implementation of a Pilot Program for handling 11C complaint appeals at the Regional Office level.
- II. **PURPOSE:** The purpose of this instruction is to establish a Regional Emphasis Program that outlines procedures to follow during a Pilot Program for processing and resolving 11C complaint appeals at the local Regional Office level.
- III. **SCOPE:** This REP applies to all Area Offices.
- IV. **REFERENCES:** OSHA Instruction: DIS 0-09, August 22, 2003 – Whistleblower Investigations Manual; Chapter 4 Section VI “Appeals”.
- V. **EXPIRATION:** This notice expires on December 1, 2011, unless extended.
- VI. **ACTION:** All regional OSHA personnel shall follow the procedures contained in this notice.
- VII. **BACKGROUND:** Currently, all 11C complaint appeals are handled through OSHA's National Office, Whistleblower Program. During this pilot program, all 11C appeals will be processed and resolved by the Regional Office.
- VIII. **PROCEDURES:**
 1. **Outreach:** None
 2. **Implementation:**
 - (a) When an 11c complaint is dismissed, the complainant will be notified in writing that they may request legal review by the Regional Office of the Solicitor (RSOL) to insure legal sufficiency.
 - i. It is OSHA's policy to grant the right of informal review by the Regional Administrator (RA) during the Pilot Program.
 - ii. The complainant will be informed of their rights of appeal through the letter of dismissal.
 - iii. OSHA has administratively extended the same right of the informal review to include complainant's disagreement with any substantive investigative element.
 - iv. The complaint and respondent notification letters have been modified (posted on the "O" Drive) to reflect mailing instructions to the Regional Office, including the name, address and telephone numbers. The letter includes language that specifies the time frame (15 days) for filing an appeal.
 - b) When a complainant files an appeal, the RA will request that the RSOL review complainant's appeal by sending a copy of the appeal and a copy of 11c case file to the RSOL. After RSOL's review has been completed, RSOL will send the RA a recommendation that will address complainants' concerns presented in the appeal.

- c) If a determination is made that not all policy and procedures were followed, the Regional Supervisory Investigator (RSI) will be directed to re-investigate the complaint or address the element of the complaint not satisfied in the original investigation.
- d) After approval by the RSOL, the RA will respond directly to the complainant.

IX. **EVALUATION:** Quarterly, the RA shall submit to the Directorate of Enforcement Programs a report that includes data pertaining to the following information:

- 1) Number of 11c cases processed by Region VI
- 2) Number of appealed 11c cases received in Region VI
- 3) Number of appeals returned to RSI for further investigation
- 4) Number of Final Determinations issued by the RA

By October 30th of each year the RA shall submit to the Directorate of Enforcement Programs an evaluation report that includes:

- 1) The goal of the program and the Area Director's opinion of how effective the program was in meeting its goals.
- 2) Data and information used to support the conclusions stated above.
- 3) Statement and rationale of whether the pilot program should be continued.
- 4) Description of any legal issues that arose which would necessitate a review by the Solicitor before renewal of the program.
- 5) Any other comments or recommendations, including findings, which might have an impact on how the industry conducts business.

DISTRIBUTION:

Area Offices
Enforcement Programs/Office of Whistleblower Protection Program
Cooperative and State Programs
Administrative Programs
Regional Solicitor
Region IV Intranet Website